

## **REMARKS**

### **I. Introduction**

Claims 11, 12, 14, 16, 18, and 20 to 33 are pending in the present application. It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants left the Examiner a voicemail with a request for an interview on January 11, 2007. The Examiner stated in a return message on January 22, 2007 that given the long pendency of the present case she would consider Applicants' after final amendments and call Applicants to discuss if the amendments did not overcome the rejections in the Final Office Action.

### **II. Objection to Claims 22, 24, 27, and 31**

Claims 22, 24, 27, and 31 were objected to under 35 C.F.R § 1.75(c) as being of improper dependent form. The objected to language regarding the filament size has been removed from claims 22, 24, 27, and 31. Therefore, Applicants respectfully submit that claims 22, 24, 27, and 31, as amended, overcome the present objection. Withdrawal of the present objection is therefore respectfully requested.

### **III. Rejection of Claims 11, 12, 14, 16, 18, and 20 to 33**

#### **Under 35 U.S.C. § 112, First Paragraph**

Claims 11, 12, 14, 16, 18, and 20 to 33 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully submit that the present claims fully comply with 35 U.S.C. § 112 for at least the following reasons.

As an initial matter, the Office bears the initial burden of presenting "evidence or reasons why persons skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims." (See M.P.E.P. § 2163.04 (citing In re Wertheim 541 F.2d 257, 262, 265, 191 U.S.P.Q. 90, 96, 98 (C.C.P.A. 1976))) (emphasis added). The Manual of Patent Examining Procedure also provides that if an examiner rejects a claim based on the lack of a written description, the examiner should "identify the claim limitation not described" and provide "reasons why persons skilled in the art would not recognize the description of this limitation in the disclosure of the application." (See id.). However, the written

description requirement is not an in haec verba requirement. That is, “the specification ‘need not describe the claimed subject matter in exactly the same terms as used in the claims; it must simply indicate to persons skilled in the art that as of the [filing] date the applicant had invented what is now claimed.’” All Dental Prodx LLC v. Advantage Dental Products Inc., 64 U.S.P.Q.2d 1945, 1948 (Fed. Cir. 2002) (quoting Eiselstein v. Frank, 52 F.3d 1035, 1038, 34 U.S.P.Q.2d 1467, 1470 (Fed. Cir. 1995). Moreover, a “failure of the specification to specifically mention a limitation that later appears in the claims is not a fatal one when one skilled in the art would recognize upon reading the specification that the new language reflects what the specification shows has been invented.” All Dental Prodx, 64 U.S.P.Q.2d at 1948 (citing Eiselstein, 52 F.3d at 1039, 34 U.S.P.Q.2d at 1470).

The Final Office Action alleges that the Specification does not disclose multiple stages of at least one of needling and using water jets and needling and stretching between these steps. Applicants respectfully disagree. The Specification teaches that one way to make the tufted backing is to use needling alone or needling together with water jets to bond the fibers. See p. 3, lines 26 to 27. Therefore, both disclosed methods of making the tufted backing involve needling. The Specification further states that the stretching operation is performed between the individual needling stages. See p. 4, lines 1 to 2. This clearly communicates to one of ordinary skill in the art that manufacture of the tufted backing involves more than one needling stage. In the case where the tufted backing is made using both water jets and needling together, this disclosure also necessarily means that there are multiple stages of bonding using needling and water jets. Further, the Specification states that the stretching between needling stages may be done when the fibers are wet (p. 4, line 3), which also supports the fact that there may be not only multiple bonding stages involving needling exclusively but also needling and water jets, as it is the water jets that render the fibers wet. See p. 4, lines 1 to 3. In light of the above, the Specification clearly discloses multiple stages of needling alone or using needling and water jets as well as stretching between these multiple stages.

Notwithstanding the above, claim 11 has been amended herein to more closely match the original language of the Specification (referring specifically to multiple needling stages as to multiple stages generally), while still distinguishing from the previously cited prior art. None of the previously cited references disclose multiple needling stages, let alone stretching the bonded fibers by up to 30% in the

longitudinal direction between needling stages, as required by amended claim 11. No new matter has been added. See, for example, the Specification at p. 4, lines 1 to 3.

In view of the foregoing, it is respectfully submitted that independent claim 11, as well as claims 12, 14, 16, 18, and 20 to 33 which depend from independent claim 11, fully comply with the requirements of 35 U.S.C. § 112, first paragraph, and withdrawal of this rejection is therefore respectfully requested.

#### IV. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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